IN THE HIGH COURT OF JUDICATURE AT BOMBAY
SIDE JURISDICTION
CRIMINAL APPLICATION NO.395 OF 2007

1.Bappu Dattatraya Jadhav
2.Mahesh @ Mahindra Eknath Jadhav ...Applicants.
V/s.
The State of Maharashtra ...Respondent.

Shri H.V.Nimbalkar, adv. for the Applicants.
Shri U.V.Nikam, APP for the Respondent/State.

CORAM: J.H.BHATIA, J.
DATE : 13th February, 2007.

P.C.:

1. Heard Mr.Nimbalkar, the learned counsel for the applicants and Mr.Nikam, the learned APP for the State. Perused police papers.

2. The applicant seeks to be released on bail in Crime No.28 of 2006 for the offences punishable under Sections 302, 322, 326, 452 read with Section 149 of the I.P.C.

3. Prosecution case in brief is that the complainant Mhasku had made a complaint or report against the present applicant no.1 who is a teacher and on the basis of that complaint, applicant no.1 was transferred from the place of his posting about one year prior to this incident. On 14-10-2006 at about 9.00

p.m., the complainant Mhasku and his relatives Dinkar Gaikwad and Nathu Sondkar were sitting on the ota outside the house to take their meals. At that time, applicant no.1 Bapu Jadhav and no.2 Mahendra and 4 others named persons and 5 or 6 unknown persons came there. Before the complainant could speak anything, applicant no.1 told the complainant that because of the complainant, he was transferred. As soon as he stated so, he himself and his companions began to beat the complainant with sticks and fists blows. One of them was having a piece of wire which was also used for beating. Applicant no.2, Mahendra gave two stick blows to Nathu Sondkar. One blow landed on his head and another on the back, due to which he suffered bleeding injury on the head. People of the locality intervened and the assailants ran away. Immediately injured persons were taken to hospital at Nasrapurkar and thereafter, report was lodged. Nathu Sondkar was admitted in Bharati Hospital wherein he died on 25-10-2006. As per the post mortem report, there were several simple injuries on his body however, he had died due to linear fracture of the head. Out of six accused persons, who were named in the F.I.R., 4 are granted bail by the Sessions Court and remaining two are before this Court.

4. From the facts revealed by the police papers, it appears that applicant no.1 had a grievance against the complainant Mhasu and he and his companions had no enmity or grudge against Nathu Sondkar. Nathu Sondkar was by chance present there and he was also assaulted in that incident. It is also material to note that except applicant no.2, who was holding a stick, none other was carrying any weapon or stick. They assaulted the complainant Mhasku with kicks and fist blows. Applicant no.2 however gave 2 stick blows to Nathu Sondkar. Initially those injuries appeared to be simple but a linear fracture of the head was caused resulting in death after a period of 11 days. It will not be desirable to comment about intention or knowledge of the applicants to cause death but it is clear that applicant no.1 did not use any weapon nor there is any allegation that he had assaulted Nathu Sondkar. Applicant no.2, who is a young boy of 22 years, appears to have used stick for giving two blows, which accidentally landed on the body of Nathu Sondkar. Investigation is completed and charge-sheet is also filed. In my opinion, no purpose will be served by detaining the applicants in jail any more.

5. The applicants be released on their executing P.R.Bond of Rs.20,000/- each with surety of like amount

with the condition that they shall not tamper the prosecution evidence.

6. The application stands disposed off.

(J.H.Bhatia,J.)